

The Administrative Law Judge awarded claimant workers compensation benefits for a severely lacerated and fractured left thumb. Claimant alleged he injured his left thumb on March 4, 1997, while drilling a hole in a piece of sheet metal during regular work hours on the premises of the respondent. Claimant testified that the piece of sheet metal was being

made to use as a hose clamp for a water hose located on respondent's heater trucks used to heat asphalt in preparation for removal of the asphalt.

Respondent contends the piece of sheet metal claimant was drilling was not a hose clamp but was a brace to repair a glider owned by the claimant. Respondent argues that their employees are not authorized to use its machinery to repair or make any personal item at any time while they are working for the respondent. Thus, respondent contends claimant's accidental injury did not arise out of his employment relationship because claimant was injured making a part for his personal use and not for the benefit of the respondent.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record, considering the briefs, and hearing the arguments of the parties, the Appeals Board finds the Award should be affirmed.

The Administrative Law Judge found the respondent's policy was for employees who were between job assignments to work on other work-related projects. At the time of claimant's injury, the Administrative Law Judge concluded the claimant was between job assignments and was injured while working on a project for the respondent, i.e., making a clamp to hold water hoses in place on respondent's heater trucks.

The Appeals Board finds the Administrative Law Judge's conclusion is supported by claimant's testimony. Claimant described how the piece of sheet metal he was drilling at the time of his injury was to be utilized as a hose clamp by mounting it to square tubing that would be flexible enough to bend around the water hose and then held in place with a bolt. Additionally, claimant testified the piece of sheet metal required another hole to be drilled in the middle before it could be mounted to the water hose bracket.

Furthermore, the Appeals Board agrees with the Administrative Law Judge's analysis of the evidence as set forth in the Award. The Appeals Board finds the Administrative Law Judge's Award sets out findings of fact and conclusions of law that are accurate and supported by the record. It is not necessary to repeat those findings and conclusions in this Order. Therefore, the Appeals Board adopts the Administrative Law Judge's findings and conclusions as its own.

#### **AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that Administrative Law Judge Nelsonna Potts Barnes' October 6, 1998, Award, should be, and is hereby, affirmed.

All authorized medical expenses are ordered paid by the respondent.

The Appeals Board adopts all the remaining orders of the Administrative Law Judge as set forth in the Award.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of April 1999.

---

BOARD MEMBER

---

BOARD MEMBER

---

BOARD MEMBER

c: Michael L. Snider, Wichita, KS  
Vincent A. Burnett, Wichita, KS  
Nelsonna Potts Barnes, Administrative Law Judge  
Philip S. Harness, Director